U.S. Senate
Republican Policy Committee

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Conference Report Highlights

October 26, 2000

Highlights of the Conference Report to Accompany H.R. 2614, Enactment of Certain Small Business, Health, Tax, and Minimum Wage Provisions

NOTEWORTHY

- The conference report to H.R. 2614 was filed this morning, and was passed by the House this afternoon by a vote of 237-174. The conference report likely will be considered by the Senate sometime tonight or tomorrow.

- In a letter dated October 26, 2000 to Senator Majority Leader Lott, the President threatened to veto the conference report to H.R. 2614 based upon a variety of objections (2 ½ page letter available from RPC).

- Significant tax relief, mandatory program amendments, an increase in the federal minimum wage, a reauthorization of the Small Business Administration, and the Pain Relief Promotion Act were added to H.R. 2614 during conference as part of an agreement between House and Senate leadership,. These provisions were introduced as separate bills and included in the conference report by reference. The bills referenced are:

  - H.R. 5538, Minimum Wage Act of 2000;
  - H.R. 5542, Taxpayer Relief Act of 2000;
  - H.R. 5543, Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000;
  - H.R. 5544, Pain Relief Promotion Act of 2000; and
  - H.R. 5545, Small Business Reauthorization Act of 2000.

- When combined with the new caps for appropriated spending, the report complies with the target of setting aside 90 percent of the FY 2001 surplus for debt reduction. Hitting this target marks the fourth year in a row that the federal budget has been in surplus and the fourth consecutive year of growing surpluses.

- The tax relief included in H.R. 5542, the Taxpayer Relief Act of 2000, includes the following highlights:

  Foreign Sales Corporation Fix: The conference report includes provisions similar to H.R. 4986, "The FSC Repeal and Extraterritorial Income Exclusion Act of 2000." This legislation is designed to bring the United States into compliance with a recent World Trade Organization (WTO) ruling regarding our tax treatment of Foreign Sales Corporations. It ensures that U.S. companies will not be subjected to punitive duties imposed by the European Union.

Small Business Tax Relief: The conference report includes numerous provisions designed to provide tax relief to small employers. This relief includes increasing the amount of capital expenditures small businesses are allowed to deduct from their income, clarifying the cash-versus-accrual accounting issue, increasing the business meal deduction, and repealing the destructive Installment Sales Provision advocated by the Clinton/Gore Administration last year.

Expanded Health Insurance Opportunities: The conference report would cut the cost of health care for individuals and small business owners who purchase their own health insurance. The report accelerates the full deduction of health insurance costs for the self-employed and it provides an "above-the-line" deduction for all taxpayers who purchase health insurance for themselves and their families. The report extends the Medical Savings Account (MSA) program for an additional two years and it allows the income-tax deductions for long-term care costs.

Savings Incentives and Pension Reforms: The conference report includes measures designed to increase savings, reform and improve employer-sponsored pensions, and enhance the retirement security for working Americans. The report: 1) increases the contribution limits on Roth and traditional IRA's; 2) increases pension portability so employees may "roll over" plans from one job to the next; 3) includes provisions to enhance pension fairness for women, 4) increases contribution and benefit limits in defined contribution and benefit plans; and 5) simplifies pension rules for both small and large businesses.

School Construction Provisions: The report includes modifications to the treatment of government bonds used to finance school construction.

Community Renewal Provisions: The conference report includes provisions from the Community Renewal and New Markets Act (S. 3152), including the creation of new Renewal Communities and Empowerment Zones and expanding brownfields expensing.

- **Tax Relief:** The total tax relief included in H.R. 5542 is $73.9 billion over the next five years and $240.4 billion over ten years. Specifically, the relief breaks down as follows (in billions):

	5-Year	10-Year
Small Business Relief	18.1	35.9
Health Insurance Provisions	18.7	88.3
Pension and IRA Reform	18.1	63.8
School Construction	2.4	7.8
Community Renewal	7.1	25.2
Misc.	7.9	15.0
Total	**73.9**	**240.4**

- Other bills referenced in the conference report:

Medicare/Medicaid/SHCIP Provisions: The conference report references legislation (H.R. 5543) to enact changes to Medicare, Medicaid, and the State Children's Health Insurance Program (SCHIP). The report reduces Medicare co-payments, expands Medicare preventive benefits, targets Medicare fraud, increases payments to Medicare providers, provides new flexibility for state's use of federal SCHIP funding, and includes additional funding for Medicaid's disproportionate share hospital program. Finally, the report requires the Health

Care Financing Administration (HCFA) to finalize its regulations regarding Medicaid upper payment limits.

Pain Relief Legislation: Also referenced is legislation (H.R. 5544) to encourage wider and more effective use of federally controlled drugs to alleviate pain and other distressing symptoms, particularly for terminally ill patients, without permitting their use for assisted suicide and euthanasia.

SBA Reauthorization: Finally, the report references legislation (H.R. 5545) to reform and reauthorize the programs of the Small Business Administration, including the Small Business Innovation Research program, the business loan programs, and the Certified Development Company program.

REFERENCED BILL PROVISIONS

SMALL BUSINESS REAUTHORIZATION ACT OF 2000 — H.R. 5545

As referenced in the conference report, the Small Business Reauthorization Act (H.R. 5545) reauthorizes most federal programs under the Small Business Administration (SBA) that are designed to help small businesses. The bill extends for eight years the Small Business Innovation Research (SBIR) Program, which targets smaller research grants to small R&D firms. SBIR grants and contracts are made between federal agencies and small firms to undertake research projects that are deemed valuable to the government. Since 1983 when the program was first enacted, there have been more than 50,000 SBIR awards totaling $8.4 billion.

H.R. 5545 also provides new three-year authorizations for most of the credit and management assistance programs at the SBA. Key guaranteed lending programs, such as the 7(a) business loan program, the 504 certified development company program, and the Small Business Investment Company (SBIC) Program, are being extended for three years. These programs are responsible for providing guarantee loans to and investments in small businesses in excess of $14 billion for the current fiscal year. The SBA's management assistance programs, including the Small Business Development Centers (SBDCs), SCORE, and the Women's Business Centers, have all been extended. These programs annually provide management and technical assistance to thousands of small businesses nationwide.

MINIMUM WAGE ACT OF 2000 — H.R. 5538

H.R. 5538 would increase the federal minimum wage by $1 over the next two years. Specifically, the bill would raise the current $5.15 minimum wage to $5.65 on January 1, 2001 and to $6.15 on January 1, 2002.

TAXPAYER RELIEF ACT OF 2000 — H.R. 5542

H.R. 5542 includes provisions providing 1) the foreign sales corporation fix, 2) small business tax relief, 3) tax relief for individual health care costs, 4) pension and IRA reforms, 5) school construction bonds, and 6) community renewal provisions.

Foreign Sales Corporation Provisions

The conference report includes provisions designed to bring the US tax code into compliance with a recent WTO ruling regarding our tax treatment of Foreign Sales Corporations. If these provisions are not enacted into law this Congress, the European Union could begin to retaliate against the United States by imposing significant duties on a broad range on US exports.

On October 8, 1999, a World Trade Organization dispute settlement panel ruled that the foreign sales corporation provisions (sections 921 through 927) of the Internal Revenue Code were an export subsidy and in violation of WTO rules. The panel ruled that the "subsidies" must be withdrawn effective October 1, 2000. If Congress and the White House failed to comply with the WTO ruling, then the European Union, which raised the issue with the WTO, would be allowed to retaliate by raising tariffs on US exports into the European Union.

The provisions, similar to those in H.R. 4986, the FSC Repeal and Extraterritorial Income Exclusion Act of 2000, address the WTO ruling by repealing the present-law foreign sales corporation rules with an effective date of September 30, 2000. This legislation passed the House of Representatives in a bipartisan vote of 315 to 109. Similar legislation was unanimously adopted by the Senate Finance Committee on September 19, 2000. This legislation satisfies the United States' WTO obligations and ensures that U.S. companies will compete on a level playing field in the global marketplace.

Small Business Tax Relief

The conference report includes significant tax relief targeted at small employers to offset the cost of the higher federal minimum wage, including the following:

- **Cash vs. Accrual Accounting Clarification:** The report creates a safe harbor that allows small businesses below a certain revenue threshold to use the cash method of accounting.

- **WOTC Extension:** The report extends the Work Opportunity Tax Credit (WOTC) through June 30, 2004. The WOTC gives employers a credit of up to $2,400 for wages paid to an employee hired from one of several qualified groups, including former welfare recipients.

- **Small Business Expensing:** The report allows small businesses to deduct the cost of trade or business property (exclusive of real property) up to $35,000. Small businesses currently may deduct only $20,000, phasing up to $25,000 by 2003.

- **Business Meal Deduction:** The report increases the business meal expenses deduction to 70 percent in 2001 from the current 50 percent level. (The new level excludes entertainment expenses.) For workers subject to the Department of Transportation hours of service limitation — i.e. truckers, airline crews, etc. — the allowable deduction is raised to 80 percent next year.

- **Farmer and Fisherman Income Averaging:** The report extends farmer income averaging to commercial fishermen and coordinates the averaging rules with the alternative minimum tax, effective in 2001.

- **Occupational Tax Repeal:** The bill repeals occupational taxes on distilled spirits, wine, and beer for retailers, wholesalers, and producers, effective July 1, 2001. Under current law, the producers and marketers of these alcoholic beverages must pay an annual tax (between $250 and $1,000 per premise) on July 1 of each year.

- **Reinstatement of Installment Sales Method:** The report reinstates the Installment Sales Method that was repealed by the Clinton/Gore administration last year. With reinstatement, small business owners may again sell property on an installment basis and recognize the income from the sale as it is received. Under the Clinton/Gore repeal, those business owners must recognize all the income in the year of the sale, regardless of whether they received the cash to pay the tax. The report repeals the law retroactive to its effective date on December 17, 1999.

Not listed but also included in the small business tax relief were provisions 1) to exclude from income debt forgiven on a home mortgage and 2) provisions related to reforestation expenses and capital gains.

Health Care Provisions

The report includes several provisions designed to increase health care access by reducing costs to individuals who purchase their own health insurance.

- **Individual Health Deduction**: The conference report includes an "above-the-line" tax deduction for the health insurance costs, including qualified long-term care expenses, of individuals who do not have employer-provided health coverage. "Above-the-line" means taxpayers may claim the deduction whether or not they choose to itemize on their tax returns. The provision is phased in over the next six years.

- **Self-Employed Health Insurance Deduction**: The report increases the deduction for health insurance costs of self-employed individuals to 100 percent beginning in 2001. This provision modifies current law, which does not phase in full deductibility of health insurance expenses for self-employed individuals until 2003. Under current law, individuals may deduct 60 percent of their health insurance expenses in 2000 and 2001, 70 percent in 2002, and 100 percent in 2003.

- **Medical Savings Accounts**: The report extends the Medical Savings Account (MSA) program for an additional 2 years. Under current law, the trial period for MSA's was due to end December 31, 2000. This provision extends the program through the end of 2002.

- **Long Term Care Deduction**: Provides a deduction for taxpayers who care for relatives with long-term care needs. The deduction grows from a maximum $3000 in 2001 to $10,000 in 2008. As with the Individual Health Deduction, this deduction is available to taxpayers regardless of whether they itemize on their tax returns.

Community Renewal Provisions

The conference report includes provisions similar to the Community Renewal and New Markets Act of 2000 (H.R. 3152) to provide relief to distressed communities and industries as detailed below. These provisions are also similar to those included in the Taxpayer Refund and Relief Act last year. The report creates 40 Renewal Communities (and 9 Empowerment Zones) that qualify for special tax incentives designed to create jobs, stimulate investment, and assist families in impoverished neighborhoods. The Community Renewal incentives include the following.

- **Capital Gains Exclusion**: The report eliminates capital gains taxes on the sale of any qualified stock, business property, or partnership interest located within renewal communities that have been held for at least five years.

- **Commercial Revitalization Deduction**: The report creates a Commercial Revitalization Deduction for efforts to build or refurbish commercial-use buildings in renewal communities. Total deductions claimed in an individual Renewal Community are limited to $10 million, although states may allocate up to $6 million in additional deductions to each renewal community.

- **Brownfields Expensing:** The report allows taxpayers to expense costs incurred in mitigating environmental contaminants on properties located within a renewal community. This provision applies to expenditures incurred after December 31, 2000, and before January 1, 2008.

- **New Markets Tax Credit**: The report establishes a new markets tax credit for equity investments in qualified community development entities.

- **Housing Credits and Bonds**: The report increases the per capita allocation of both the Low Income Housing Tax Credit and the Private Activity Bonds Volume caps over the next two years. The Low Income Housing Tax Credit cap is raised to $1.75 per capita, while the Private Activity Bond cap is raised to $75 per capita. After two years, the caps are indexed for inflation.

Pension Reforms

The conference report includes more than 50 pension reform provisions, including increased contribution limits for 401(k) plans, 403(b) plans, and 457 plans, allowing women reentering the workforce to make catch-up contributions to their pension plans, increases to the portability of private and public pension plans, and a reduction in the regulatory burden shouldered by employers who offer savings plans. Many similar provisions were included in legislation that passed the House earlier this year, 401 to 25. Specific pension provisions include:

- **Increased Savings Incentives:** The measure increases contribution and benefit limits in tax-favored retirement plans, including 1) increasing maximum allowable IRA contributions from $2000 to $5000 and 2) increasing contribution limits for 401(k), 403(b), and 457 plans from $10,500 to $15,000.

- **Roth IRA Expansion**: The report extends the "Roth IRA" concept — depositing after-tax contributions to receive tax-free distributions — to 401(k) and 403(b) plans whereby participants may elect to have salary deferrals treated as after-tax contributions.

- **Enhancing Fairness for Women**. The report contains several provisions designed to assist women workers in preparing for their retirement. These provisions include allowing workers over 50 years old to make additional salary reduction "catch-up" contributions as well as accelerated vesting requirements for employer matching contributions.

- **Pension Security**: The report requires employers who change their pension plans to notify their employees of the change in advance.

- **Pension Simplification**: In addition, the report modifies and simplifies "top-heavy rules" on small businesses establishing pension plans, as well as many other provisions designed to reduce the complexity of plan administration.

- **Portability**. The report increases portability of retirement assets so employees may roll over such assets from one job to the next.

School Construction Bonds

The report contains several provisions to finance school construction, including three provisions that had previously passed the Senate: an increase in the small arbitrage rebate exemption; a four-year expenditure schedule for public school construction under the arbitrage rebate rules; and issuance of private activity bonds for public school facilities. All of these provisions provide more flexibility to local districts while maintaining local control.

In addition, the report contains a modified school construction bond proposal requested by the Administration. The proposal allows for the issuance of $15 billion in additional Qualified Zone Academy Bonds — a program already in current law— for the construction, repair, and renovation of public schools for three years.

However, the proposal does not include the bureaucratic provisions included in Democrat school construction proposals. Instead, all of the bond authority will go directly to the states based on population. The states will then have the authority to allocate the bond authority to different districts within the state. There is no review or oversight by the Department of Education. There is also no Davis-Bacon requirement.

Miscellaneous Tax Provisions

The report includes numerous miscellaneous provisions, including a repeal of the 4.3-cents-per-gallon tax on railroad diesel fuel and inland waterway fuel currently paid into the general treasury and tax credit bonds for the National Railroad Passenger Corporation (Amtrak). Other miscellaneous provisions include:

- **Computer Donations:** Extends and expands the enhanced deduction for computer donations to elemenatary and secondary schools through 2003.

- **FFARM Accounts:** Creates tax-deferred savings accounts for farmers and fishermen, allowing a deduction of up to 20 percent of the income deposited into a custodial account. Deposits must be withdrawn within five years, and are taxable when withdrawn.

- **Adoption Tax Credit:** Extends and expands both the non-special needs and special needs adoption tax credits. The non-special needs credit is increased from $5000 to $10,000 while the special needs credit is increased from $6000 to $12,000. Also increases the income caps for taxpayers wishing to take the credit from $110,000 to $190,000.

MEDICARE/ MEDICAID/ SCHIP IMPROVEMENT AND PROTECTION ACT — H.R. 5543

The conference report references H.R. 5543, the Medicare, Medicaid, SCHIP Benefits Improvement and Protections Act. This legislation includes numerous provisions designed to strengthen Medicare, Medicaid, and the Children's Health Insurance Program. (This section taken from Finance Committee handouts.)

- **Lower Seniors' Out-of-Pocket Hospital Costs:** The plan accelerates the reduction of high co-payments Medicare beneficiaries pay for outpatient hospital visits. Currently, Medicare patients pay as much as 70 percent on certain co-pays for outpatient hospital care.

- **Improved Preventive Benefits for Medicare Beneficiaries:** The plan creates and expands important new preventive benefits for seniors and the disabled. In addition to lowering out-of-pocket outpatient hospital costs, the plan also offers coverage of:

  - Bi-annual pap smear screenings and pelvic exams;
  - Medical nutrition therapy for patients with diabetes or renal disease;
  - Glaucoma screenings;
  - Colon cancer screenings for all Medicare patients; and
  - Calls for Congressional study of expanding Medicare coverage of thyroid screenings.

- **Additional Beneficiary Assistance:** Additional provisions improve access to Medigap coverage; permit Medicare+Choice plans to give beneficiaries cash rebates of Part B premiums; protect access to immunosuppressive, cancer, hemophilia and other drugs; and conduct new outreach initiatives to promote enrollment in programs designed to provide cost-sharing assistance to low-income Medicare beneficiaries.

- **Creates New Protection Through Medicare Patient Bill of Rights:** Gives Medicare beneficiaries access to an external review process and expands the rights of Medicare patients to appeal coverage decisions.

- **Strengthens Rural Hospitals:** The refinement package provides equitable treatment for rural disproportionate share hospitals (DSHs) caring for a disproportionate share of poor Medicare patients; extends the Medicare Dependent Hospital program for rural areas; updates target amounts for all sole community hospitals; and increases rural patients' access to emergency and ambulance services.

- **Boosts Medicare Anti-Fraud Provisions:** Prevents drug companies from manipulating Medicare reimbursement levels for covered drugs which result in Medicare overpayments. Establishes fairer pricing system for Medicare reimbursable prescription drugs and related services. The package also re-authorizes an expired Office of Inspector General (OIG) advisory opinion provision, and creates stricter new standards for prosthetic device fraud.

- **Gives Rural Seniors Access to Best Medical Care Through Telehealth Services:** Increases Medicare access to telehealth medicine in rural areas where medical specialists are not readily available. As a result, Medicare patients will now have access to the world's best doctors and medical care regardless of where they live.

- **Improves Beneficiaries' Access to New Medical Technologies:** Modernizes Medicare's coding and payment procedures so that beneficiaries can have more rapid access to new technologies.

- **Improves Access to Hospitals and Strengthens Teaching Hospitals:** Ensures access to hospital services nationwide by providing a full inflation update for 2001. The plan also ensures the financial stability of teaching hospitals by increasing payments related to physician training.

- **Offers Beneficiaries More Flexibility Through Medicare+Choice:** Stabilizes and improves funding for beneficiaries electing to enroll in privately-offered Medicare+Choice plans, with special attention to rural communities; and provides additional assistance for disabled and rural beneficiaries. Assistance has also been targeted to immediately help those communities at greatest risk of losing their M+C plans. The plan also ensures that health disparities do not occur between different racial/ethnic groups served by M+C plans, and also makes it easier for employers providing retiree coverage to coordinate coverage with M+C plans.

- **Strengthens Critical Access Hospitals:** Eases out-of-pocket costs for beneficiaries getting clinical lab tests done in critical access hospitals (CAHs). Gives rural hospitals more flexibility in exempting swing beds from the PPS, thus providing more flexibility to better care for patients with varying medical needs. Expands access to ambulance services furnished by CAHs as well as increased access to emergency room on-call physicians. The plan also provides hospitals with assistance so they can attract more doctors to isolated rural areas.

- **Home Health and Hospice Provisions:** Protects funding for home health services by delaying a scheduled 15-percent cut in payments in addition to other payment increases. Provides for full medical inflation update for home health. Hospice provisions also improve funding for end-of-life care. The plan also enhances the use of telehealth medicine in delivery of home health care services.

- **Increases Access to Care for Nursing Home Patients:** Maintains access to therapy services and reduces regulatory burdens by eliminating some parts of consolidated billing. In addition, the plan increases the Federal per diem rate for SNF "market baskets."

- **Provides Payment Updates for Renal Dialysis and Durable Medical Equipment:** The plan improves beneficiaries' access to renal dialysis treatments and durable medical equipment such as wheelchairs.

- **Boosts Care in Long-Term, Rehabilitation, and Psychiatric Hospitals:** Adjusts payments for existing long-term, rehabilitation, and psychiatric hospitals.

- **Boosts Patient Access to Federally Qualified Health Centers:** Adds provisions to protect clinics from potential reductions in payments in order to maintain access to community health centers.

- **Strengthens and Expands Access to Medicaid and Children's Health Insurance:** Establishes policies for the retention and redistribution of unspent SCHIP funds; adds funding for Medicaid's disproportionate share hospital (DSH) program.

- **Helps Protect the Financial Integrity of the Medicaid Program**: Begins to take steps to address inappropriate Medicaid financing programs that undermine the federal/state matching relationship. By requiring HCFA to finalize its proposed regulation on upper payment limits by the end of this calendar year, this provision produces savings in excess of $20 billion over 5 years and $80 billion over 10 years. The package also adds funding for Medicaid's disproportionate share hospital (DSH) program.

- **Ricky Ray Fund**: Finally, the report adds funds to the Ricky Ray Hemophilia Fund.

THE PAIN RELIEF PROMOTION ACT — H.R. 5544

The conference report references H.R. 5544, the Nickles-Lieberman Pain Relief Promotion Act. This bill establishes that the use of controlled substances for the relief of pain and discomfort is a "legitimate medical purpose," even if the large doses used in treating pain may unintentionally hasten death. Under the bill, intentionally causing death or assisting in causing death remains forbidden. The bill's effect in 49 states (except Oregon) is to provide new legal protection for physicians who prescribe controlled substances to control pain. (The bill extends these protections to physicians in Oregon for cases involving those who are not terminally ill.) The bill is endorsed by the American Medical Association as well as by numerous pain relief and hospice professional organizations.

Among the specific provisions, H.R. 5544:

- Defines pain management and palliative care as the active total care of patients whose disease or medical condition is not responsive to curative treatment or whose prognosis is limited due to progressive, far advanced disease. The purpose of such care is to alleviate pain and other distressing symptoms and to enhance the quality of life, not to hasten or postpone death.

- Establishes a "safe harbor" for medical practitioners by stating that using controlled substances to alleviate pain and discomfort in the usual course of professional practice is a legitimate medical purpose and consistent with public health and safety, even if it may unintentionally increase the risk of death. Clarifies that nothing in the previous sentence allows for the intentional use of controlled substances to cause or assist in causing death.

- States the Attorney General shall not recognize any state law permitting assisted suicide or euthanasia in determining public interest. It does not limit any state from passing a law permitting or opposing assisted suicide, however, that state law would not infringe upon the federal Controlled Substances Act.

- Clarifies that the bill will neither pre-empt state laws or standards for pain management and palliative care; nor allow state laws to pre-empt federal law regarding federally controlled substances. These provisions are effective upon enactment with no possibility of retroactive revocation.

- Clarifies that nothing in the bill would alter the federal requirement that a controlled substance be dispensed only for a legitimate medical purpose as stated in paragraph one of Title II of the bill, or give the Attorney General authority to issue specific standards (dosage requirements) for pain management and palliative care.

- Raises the burden of proof the DEA must meet to "clear and convincing" when a practitioner claims a defense that he was treating for pain and the patient unintentionally died as a result of that treatment. This is an important protection for physicians and other health care professionals.

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